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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,647	08/28/2003	Richard Myrle Benson	1780/1	7279
23381	7590	10/29/2004	EXAMINER	
DORR CARSON SLOAN & BIRNEY, PC			STEWART, ALVIN J	
3010 EAST 6TH AVENUE			ART UNIT	
DENVER, CO 80206			PAPER NUMBER	
			3738	

DATE MAILED: 10/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/650,647	Applicant(s) BENSON, RICHARD MYRLE	
	Examiner Alvin J Stewart	Art Unit 3738	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>08/28/03</u> . | 6) <input type="checkbox"/> Other: ____  |

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "said outer diameter" in line 8. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the upper end" in line 9. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the lower end" in line 11. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "said outer diameter" in line 8. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "the upper end" in line 9. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "the lower end" in line 11. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 4, 6, 8-10, 12, 14 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Chen US Patent 6,305,869 B1.

Chen discloses a clamp (3) comprising a tubular portion (1) having an annular socket portion and a lower end (see marks made by Examiner in Fig. 1), a slot (11), a tubular pylon (2), a handle (31), a curved area in the handle, a raised end, tabs, a nut (33), bolt (32), and a camming cup.

Regarding claims 3 and 12, see Figure 1.

Regarding claims 9 and 10, see Fig. 4 in attachment showing the 45-degree angle.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen US Patent 6,305,869 B1 in view of Biedermann et al US Patent 6,051,026.

Chen discloses the invention substantially as claimed. However, Chen does not disclose a clamp portion at the lower end of the tubular portion.

Biedermann et al discloses a tubular portion (18) having a clamp portion (20) located at the lower end for the purpose of connecting the tubular portion with a lower pylon.

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the location of the clamp portion (at the lower end of the tubular portion) in order to connect the tubular portion with a lower pylon (see Fig. 1).

Claims 5, 7, 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen US Patent 6,305,869 B1 in view of Stefancich US Patent 4,430,017.

Chen discloses the invention substantially as claimed. However, Chen does not disclose a nylon insert between the cam and the camming cup.

Stefancich teaches a clamp having a plurality of nylon bushing (43 & 44; col. 4, lines 26-31) for the purpose of retaining the cam element against axial displacement of the bolt.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Chen reference with the nylon bushing of the Stefancich reference in order to retain the cam element against axial displacement of the bolt.

Regarding claims 5 and 13, at the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to modify the nut of the Chen reference by adding an internal nylon insert for holding the nut to the bolt because Applicant has not disclosed that the internal nylon insert provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the nut of the Chen reference because both nuts will perform equally the same.

Therefore, it would have been an obvious matter of design choice to modify the Chen reference to obtain the invention as specified in claims 1 and 10.

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*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin J Stewart whose telephone number is 703-305-0277. The examiner can normally be reached on Monday-Friday 7:00AM-5:30PM(1 Friday B-week off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on 703-308-2111. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*A. Stewart*

Alvin J Stewart  
Primary Examiner  
Art Unit 3738

October 26, 2004.